

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

V.

WHEELER JOSEPH PAAVOLA and
WILLAIM TROY TOMBLIN.

Defendants.

NO: CR-11-12-RMP-1
CR-11-12-RMP-2

ORDER MEMORIALIZING COURT'S RULINGS AND PRETRIAL ORDER

A pretrial hearing was held in this matter on May 27, 2011. Defendant Paavola, who is in custody, was present and represented by Assistant Federal Defender Rick L. Hoffman. Defendant Tomblin, who is not in custody, was present and represented by CJA Attorney Christian J. Phelps. The Government was represented by Assistant United States Attorney Russell Smoot, who was standing in for AUSA Matthew F. Duggan.

Before the Court is Defendant Paavola's Motion to Continue Trial (ECF No. 67) and Defendant Tomblin's Motion to Continue Pretrial and Statement of No Objection (ECF No. 72). Defendants move for a continuance in order to allow

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1 additional time to investigate this case. The Government does not object to a
2 continuance in this matter. Because any motion filed by one Defendant is deemed to
3 be applicable to all Defendants, unless otherwise noted, the Court applies its findings
4 to both Defendants.

6 The Court finds that the ends of justice served by the granting of a
7 continuance of the trial in this matter outweigh the best interests of the public and
8 the Defendants in a speedy trial. A trial date of July 6, 2011, would deprive
9 defense counsel of adequate time to obtain and review discovery and provide
10 effective preparation, taking into account the exercise of due diligence. 18 U.S.C.
11 § 3161(h)(7).

15 The Court has reviewed the file and motions, has heard from counsel, and is
16 fully informed. This Order is entered to memorialize and supplement the oral
17 rulings of the Court. Accordingly,

19 **IT IS HEREBY ORDERED:**

20 1. The following motions are **DENIED WITH LEAVE TO RENEW:**
21 Defendant Paavola's Motion for Renewal of Motion for Disclosure (**ECF No. 51**)
22 and Motion for Renewal of Motion to Compel (**ECF No. 53**).
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25 2. The Court reserves ruling on Defendant Paavola's Motion to Sever (**ECF**
26 **No. 55**).
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1 3. Defendants' Motions to Continue Trial (**ECF No. 67, 72**) are

2 **GRANTED.**

3 4. The original trial date of July 6, 2011, is **STRICKEN and RESET to**
4 **August 22, 2011, at 9:00 a.m.** in **Spokane**, Washington.

5 5. A pretrial conference is set for **August 8, 2011, at 1:30 p.m.** with a **final**
6 pretrial conference on **August 22, 2011, at 8:30 a.m.** All hearings shall take place
7 in **Spokane**, Washington.

8 6. Discovery motions and Motions *in limine* shall be filed and served on or
9 before **July 18, 2011**.

10 7. Responses to motions shall be filed by **July 25, 2011**.

11 8. Replies shall be filed by **August 1, 2011**.

12 9. Trial briefs, requested voir dire, and a set of proposed **joint jury**
13 **instructions** shall be filed and served on or before **August 12, 2011**.

14 Any motion filed by either Defendant in this matter, which is not limited by
15 its subject matter to the Defendant filing the motion, shall also be considered to be
16 a motion filed on behalf of the co-Defendant. If the co-Defendant does not wish to
17 join a particular motion, he or she shall file a notice to that effect. This will avoid
18 the necessity of each Defendant filing duplicate motions.

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1 Jury Instructions should address only issues that are unique to this case and
2 shall include instructions regarding the elements of each claim, any necessary
3 definitions, and a proposed verdict form.
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5 Parties shall supply the Court electronically with Joint Proposed Jury
6 Instructions in Word or WordPerfect format and shall include:
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8 (a) The instructions on which the parties agree; and
9 (b) Copies of instructions that are disputed (i.e., a copy of each party's
10 proposed version of an instruction upon which they do not agree).
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12 All jury instructions from the most current edition of the Ninth Circuit
13 Manual of Model Jury Instructions may be proposed by number. The submission
14 of the Joint Proposed Jury Instructions will satisfy the requirements of LR 51.1.(c).
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16 Each party shall address any objections they have to instructions proposed
17 by any other party in a memorandum by **August 19, 2011**. The parties shall
18 identify the specific portion of any proposed instruction to which they object and
19 shall elaborate the basis for the objection. Objections asserting that an instruction
20 sets forth an incorrect statement of law shall describe the legal authority that
21 supports the objection. Failure to file an objection to any instruction may be
22 construed as consent to the adoption of an instruction proposed by another party.
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1 10. A Waiver of Speedy Trial Rights was signed by each Defendant. All
2 time from the trial date of **July 6, 2011**, to the new trial date of **August 22, 2011**, is
3 **EXCLUDED** for speedy trial calculations pursuant to 18 U.S.C. § 3161(h)(7).
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5 11. All time from the filing of Defendants' Motion to Continue on **May 16,**
6 **2011**, to the date of the hearing on **May 27, 2011** is **EXCLUDED** for speedy trial
7 calculations pursuant to 18 U.S.C. § 3161(h)(1)(D).
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9 12. The parties are requested to submit courtesy copies of witness and
10 exhibit lists to the Court no later than **12:00 noon the Thursday before trial**
11 **commences.**
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13 The District Court Executive is directed to file this Order and provide copies
14 to counsel.
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16 **DATED** this 31st day of May, 2011.
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19 *s/ Rosanna Malouf Peterson*
20 ROSANNA MALOUF PETERSON
21 Chief United States District Court Judge
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